IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL LOCAL DIVISION, DURBAN

In the matter between: **CASE NO: CCD6/2024**

THE STATE

and

SBONELO MADANON WISEMAN SHANGASE **ACCUSED 1**
THALENTE MHIZE **ACCUSED 2**

In Re

ENQUIRY: MR SITHEMBISO NKATHA

ORDER

The following orders are issued:

1. Paragraphs 1.1, 1.1.1, 1.1.2, 1.2 and 1.3 of the rule *nisi* of 24 July 2025 are thus confirmed.

2. Paragraph 1.4 of the rule *nisi* is adjourned to 19 February 2026 at 9h30.

3. Mr Nkatha is directed to ensure he is in attendance on 19 February 2026 at 9h30 and is suitably represented to lead evidence or present submissions in mitigation of sentence.

4. The Registrar of the criminal section is directed to ensure that a copy of the orders issued, and the judgment, is despatched to Mr Nkatha and Mr Shah of the National Prosecuting Authority.

JUDGMENT

Henriques J

Introduction

[1] Over the last few months several media outlets have reported on the inordinate delays in the criminal justice system. These have been attributed to various factors – maintenance and infrastructure issues like lack of electricity and water in the various courts around the country, lack of funding for legal representation and many others. This has resulted in accused spending months, sometimes years awaiting trial, or finalisation of their trial which affects not only their families but also the families of the victims who wait for years for justice to be done.

[2] In an effort to ensure and reduce the delays and backlogs in the criminal justice system the courts together with the National Prosecuting Authority and other role players have introduced a system of criminal pre-trials. This was designed to ensure that all pre-trial proceedings are resolved prior to trial dates being allocated and ideally envisages a situation where once pre-trials have been finalised, trials will proceed on the trial dates allocated and there would be no delays. In ideal circumstances this is achieved. However, this particular matter is one in which such ideal circumstances were not achieved.

Rule *nisi*

[3] On 24 July 2025 I was constrained to issue the following order:

'1. A Rule *Nisi* is hereby issued calling upon Mr Sithembiso Nkhata to show cause on affidavit in Y Court on 13 August 2025 at 09h30 or so soon thereafter why he should not be held in contempt of court for:

1.1 contravening section 165(3) of the Constitution of the Republic of South Africa thereby interfering with the proper functioning of this court by inter *alia*:

1.1.1 failing to adhere to his undertaking to attend at trial on 21 July 2025 and represent accused 1 **SBONELO WISEMAN SHANGASE** in circumstances where he confirmed to court that he was placed in sufficient funds to represent the accused for the duration of the trial;

1.1.2 failing to timeously notify the court of his inability to represent the accused 1 in contravention of the undertaking referred to in paragraph 1.1.1. above;

1.2 his failure to attend at trial court on 21 July 2025 to withdraw as the attorney of record in respect of accused 1 and to proffer an explanation in light of his undertaking referred to in paragraph 1.1.1. above;

1.3 for his failure to comply with the directive issued by this Court on 22 July 2025 to attend Court on 24 July 2025 at 09h30 to produce the documents that were discovered by the State and which were made available to him for preparation for trial;

1.4 that Mr Sithembiso Nkhata be imprisoned for such period as this Court deems just or equitable;

2. Such affidavit is to be filed on or before 1 August 2025 with the Registrar of the Criminal Section, Ms Divania Pillay.

3. Mr Sithembiso Nkhata is to ensure that he is legally represented at the enquiry on 13 August 2025.'

[4] In order for the parties to properly appreciate the circumstances under which these orders have been issued it is apposite for the court to set out the facts and a chronology to give context to the circumstances which prevailed at the time the order was issued.

Factual background and chronology

[5] The record of these proceedings will reveal that this matter served before me on a number of occasions and other Judges on the criminal pre-trial roll in 2024. On 25 July 2024 Mr Nkatha, who at that stage appeared for both accused, and who incidentally arrived late, had indicated that there was an issue with the indictment and he was therefore not in a position to deal with the pre-trial conference or to make any admissions in terms of s 220 of the Criminal Procedure Act 51 of 1977 (CPA).

[6] In addition, on the previous occasion that the matter was in court, he had indicated that he had difficulty in securing fees from the accused. However, the

presiding judge, Bedderson J, indicated that the court would not be held to ransom on the issue of fees. The matter stood down and Mr Nkatha took instructions and advised Bedderson J that he would be in a position to continue with the trial and pre-trial proceedings and further that the issue of fees would be resolved to his satisfaction.

[7] Before me at the pre-trial conference on 25 July 2024, Mr Nkatha then raised issues in relation to the indictment and indicated that it differed from the one served on the accused in the lower court. However, the State representative, Mr Shah, indicated that the indictment had not been amended and was the same indictment that was served on the accused in the lower court. Although Mr Nkatha suggested three different indictments were served it was established only one indictment was served on the accused. The matter then stood down to enable the parties to finalise and complete the pro-forma pre-trial conference minute.

[8] However, when the matter was recalled Mr Nkatha indicated that there were no admissions in terms of s 220 of the Criminal Procedure Act, which the accused were prepared to make specifically in relation to the post-mortem reports and the cause of death of the various deceased persons in the indictment. When asked to stipulate which of the witnesses he required to be in attendance at court for trial in light of the refusal to make those s 220 admissions, he failed to respond. As a consequence thereof, the State was directed to prepare a formal set of s 220 admissions and provide the supporting documents to Mr Nkatha and the court by 6 August 2024. The matter was adjourned to 15 August 2024 for a pre-trial conference to take place formally in court. At no stage during this pre-trial were any issues raised concerning fees.

[9] When the matter resumed on 15 August 2024, the State confirmed that the formal s 220 admissions required, discovery bundles and trial exhibits were handed to Mr Nkatha in advance of the pre-trial conference. Mr Nkatha confirmed that his services were terminated by accused 2, who now wished to apply for Legal Aid South Africa (Legal Aid), but he remained on record for accused 1. He also indicated that he had not canvassed the documents provided by the State for purposes of conducting the pre-trial conference as directed. The matter was therefore adjourned to 29 August 2024 for legal representation to be appointed for accused 2 and for Mr Nkatha to properly prepare for the pre-trial conference and consult with accused 1.

[10] On 29 August 2024 at 9h30 when the pre-trial conference reconvened Mr Nkatha, was not present. Mr Shah referred to email correspondence from Mr Nkatha, which he had been requested to convey to the court. The correspondence indicated that Mr Nkatha would not be in attendance on 29 August 2024 as he had not been placed in funds. The court then directed accused 1 to resolve the issue of funds with Mr Nkatha and to convey the message to his family as they were responsible for paying his fees and to ensure that Mr Nkatha was present on the next court date failing which he would have to conduct his own defence as he did not want to apply for Legal Aid or instruct a new private legal representative.

[11] Given the failure by the accused to make any s 220 admissions, Mr Shah indicated that he would therefore have to call approximately 90 witnesses. The court was advised that Mr Daniso had been appointed to represent accused 2 and that Mr Daniso had difficulty consulting with accused 2 at Westville Correctional Centre, as accused 2 did not answer to his name. Consequently, the court directed Mr Daniso to consult with accused 2 and prepare for the pre-trial conference whilst they were both at court. Mr Daniso indicated that he would be ready to participate in the pre-trial conference on the next available date. The matter was therefore adjourned to 26 September 2024 for a formal pre-trial conference and Mr Nkatha's attendance.

[12] On 26 September 2024, Mr Marimuthu stood in for Mr Daniso and confirmed that they would finalise the s 220 admissions by 14 November 2024 as they were not able to download the video footage provided by the State. Mr Shah undertook to assist Mr Daniso in viewing video footage on the next court date. The court then held a formal pre-trial conference in respect of the s 220 admissions with Mr Nkatha for accused 1, who was in attendance.

[13] Accused 1 made certain admissions and declined to make others in respect of the various counts as was his right. In addition, there would be no admissions in relation to the exhibit numbers as this would be dealt with at the trial stage. Mr Shah was requested to finalise the minutes of this formal pre-trial conference with Mr Nkatha and file it at the next court appearance.

[14] This was done and on 7 November 2024, the matter was certified ready for trial for 21 July 2025. Given the nature of evidence that the State was required to present the number of witnesses to be called, the matter was allocated two back to back sessions and specific arrangements were made on the calendar to accommodate the matter and for a judge to be appointed for that period. There is no indication from the record that fees was an issue nor that there was any impediment to the trial proceeding, specifically with regards to Mr Nkatha's continued involvement in the matter.

[15] On 21 July 2025, the first day of trial before Sipunzi AJ, the legal representative for accused 1, Mr Nkatha, was not present. As a consequence, the matter was then adjourned to 24 July 2025 to the pre-trial roll as is the convention in the division. The directive requiring him to be in attendance on 24 July 2025, was communicated to Mr Nkatha telephonically (via his office), and via email to Nozipho Ndlovu, his office manager, who not only confirmed receipt of the email, but who also confirmed she had brought the email to Mr Nkatha's attention.

[16] On 24 July 2025 when the matter was called, Mr Nkatha did not appear despite being directed to do so. The court staff called out Mr Nkatha's name in the foyer and outside court on numerous occasions, but there was no response. The matter stood down to give him time to attend. When the matter was recalled on 24 July 2025, Mr Shah advised the court that Mr Nkatha did not attend at the trial court on Monday 21 July 2025 and neither was he present despite the matter having stood down.

[17] The investigating officer, Sergeant Goss, confirmed that he had seen Mr Nkatha outside W Court at approximately 10h10 on the morning of trial, and when he queried why he was not in attendance at the trial court, Mr Nkatha refused to come to the trial court and informed him that he had withdrawn as counsel for accused 1 and had notified Mr Shah.

[18] Mr Shah confirmed that when he was informed of this by the investigating officer, he had checked his emails and had not received any email, written or verbal notification from Mr Nkatha indicating his withdrawal as legal representative for accused 1. He indicated that he and Mr Nkatha communicated with each other in the

past telephonically. He had also dispatched an email to both Mr Nkatha and Mr Daniso on 15 July 2025 relating to the trial.

[19] Mr Shah also advised on the first day of the trial that whilst at the trial court for this matter, he was approached by an attorney Mr S R Ngcobo enquiring about the status of the matter as he indicated to the State representative that he had been approached by accused 1 to represent him. When he was advised that the matter was enrolled for trial, Mr Ngcobo indicated that he was not going to get involved nor place himself on record.

[20] The accused confirmed that he had last consulted with Mr Nkatha on 7 November 2024 and had no contact with him since. Mr Nkatha had not requested funds from the accused either and the accused was unsure whether he had requested funds from his family. The accused indicated that he wished to make an application with Legal Aid for representation. However, Mr Marimuthu confirmed that until such time as Mr Nkatha had formally withdrawn as attorney of record for the accused, no such application could be processed.

[21] Mr Daniso was excused in the interim and the rule *nisi* issued which is a matter of record. The matter was then adjourned to 13 August 2025 for service of the rule *nisi* on Mr Nkatha.

[22] The registrar of the criminal section together with Mr Shah arranged for the order to be served formally. The order of 24 July 2025 directed Mr Nkatha to file an affidavit on 1 August 2025 with the registrar of the criminal section, Ms D Pillay, and to ensure that he is legally represented at an enquiry to be held on 13 August 2025.

[23] The order for the enquiry was necessitated as a consequence of the following:

(a) Formal written complaints directed by the prosecutor, the Deputy Director of Public Prosecutions and Legal Aid who all indicated that much time and effort was put into getting the matter trial ready and that the matter had been enrolled for two sessions.

(b) Mr Nkatha failing to timeously withdraw as accused 1's legal representative.

(c) Mr Nkatha failing to attend court on 21 and 24 July 2025.

(d) Accused 1 indicated that he was not advised by Mr Nkatha that he intended to or had withdrawn as his attorney of record and had contact with him last in November 2024.

(e) Accused 1's application for Legal Aid could not be processed as Mr Nkatha had not formally withdrawn as legal representative for accused 1.

[24] The order was further informed by the following. The accused faced 30 counts in total – 15 counts of murder, six counts of attempted murder, four counts of robbery with aggravating circumstances, counts relating to kidnapping and the unlawful possession of semi-automatic firearms and ammunition. The offences were committed in 2021 and 2022 and had occurred at various places in Kwa Zulu-Natal.

[25] The accused were both arrested in 2022 and the indictment had been served on them in February 2024. The court was informed that several witnesses had been killed, some were afraid to testify and that family members of the accused were alleged to be interfering with the State witnesses. State resources had been utilised and costs had been incurred in securing the attendance of the State witnesses, some of whom would testify on matters of a technical nature.

[26] In addition, the parties indicated that a formal complaint will be lodged with the Legal Practice Council in relation to Mr Nkatha's non-attendance and his failure to formally attend at court and withdraw as attorney of record. It was also noted that the pre-trial proceedings were delayed for approximately 7 months on the pre-trial roll before dates for trial were set which trial dates were convenient to Mr Nkatha.

[27] On 25 July 2025 at 08h07 Mr Shah forwarded to my secretary an email which he had received from Mr Nkatha from Morgan's Copy Centre and Photography at approximately 13h53 on 24 July 2025. Attached to such email was an undated letter in manuscript from Mr Nkatha which read as follows:

'Dear Mr Shah,

I attach hereto a letter that is self-explanatory, hospital card.

The doctors letter shall follow soon. I was also robbed at gun-point. My life safety is at risk.

Regards,

Sithembiso Nkatha.'

[28] He also attached a letter dated 6 July 2025, marked without prejudice, which he alleged he forwarded to Mr Shah indicating that he would not attend at court and sought to withdraw as he had not been placed in funds and for personal reasons. It indicated:

(a) That a conflict of interest arose (the nature of the conflict not being explained) and was in place at the time of the admissions;

(b) That he was required to constantly attend at hospital on a monthly basis and is therefore unable to continue with the trial. Attached was a hospital attendance note;

(c) That he was robbed at gunpoint and his life and safety was at risk;

(d) That he is currently on the bench as a magistrate which requires him to be at court constantly which is a further conflict of interest; and

(e) That he would make all documents available to Mr Shangase (ie accused 1).

[29] A notice of withdrawal was also attached and dated 25 July 2025, however, the date was deleted in manuscript, and altered to 6 July 2025. There was no proof that the notice had been filed with the Registrar's office nor service on the Director of Public Prosecutions.

[30] The order of 24 July 2025was served. An affidavit of a SAPS official was filed, setting out the attempts he made to serve the order on Mr Nkatha, confirming that his offices were locked, however they traced his receptionist and served the court order on her, being Nozipho Ndlovu, who received it on Mr Nkatha's behalf. On Monday 28 July 2025 at 11h27, Nozipho Ndlovu of Mr Nkatha's office confirmed receipt of the email and the court order.

[31] On 1 August 2025, Mr Nkatha filed his initial affidavit in compliance with the court order. The affidavit indicates that he had not interfered with the proper functioning of the court and that he had received threats and a number of events had occurred since he was instructed in the matter. These events occurred whilst at court and others at Westville Prison when he conducted consultations with the accused. The conflict of interest started when admissions were being dealt with which led to three attempts to withdraw from the matter.

[32] The issues were traversed before Bedderson J. He was no longer trusted by the accused specifically given the pre-trial conference during which the s 220 admissions were dealt with. According to the accused's family he was working with the prosecutor. He also experienced a robbery at gunpoint during the period he acted as a magistrate.

[33] He indicates that he had emailed Mr Shah a month prior to him deposing to the affidavit that he had not been placed in funds and that when the issue was raised with Bedderson J, he was withdrawing already and the accused made an undertaking to apply for Legal Aid. He was threatened on 21 July 2025 after leaving the Pinetown Magistrates' Court on his way to the Durban High Court and did not enter the court. In addition he was robbed on 18 July 2025 at gunpoint and assaulted. During the course of the assault his cellphone was taken. This was the same cellphone from which he had sent an email to Mr Shah withdrawing as attorney of record.

[34] After he was robbed on 18 July 2025, he attended at Telkom on 19 July 2025 and was unable to reconnect his cellphone. He then on 21 July 2025 obtained a new sim card. He did not read or receive any messages or emails and only received the court's directive to be at court after such directive had been emailed.

[35] He did not attend at court on 24 July 2025 as he was unaware of the court order and directive and also as he had to attend at hospital to see a psychologist and obtain his medication. His reason for emailing the documents through the internet café was because he did not trust his own systems at his office.

[36] On 13 August 2025, Mr Nkatha indicated that he wanted leave to file a supplementary affidavit and it was only then that he formally withdrew as legal representative for accused 1 and the Legal Aid application in respect of accused 1 could be processed. The reason which he proffered in writing for seeking to file a supplementary affidavit was 'with the view of capturing the actual incidents and align them with the dates and other extracurial information.'

[37] Such leave to file a further affidavit was granted and a further opportunity was also given to Mr Nkatha to ensure that he secures legal representation. He formally

placed on record that he had secured the services of a legal representative who undertook to be present at court on 13 August 2025, however, the legal representative was engaged in a matter in Pietermaritzburg and therefore could not attend. He placed on record the further attempts he made to secure legal representation. In addition, he also communicated with the Registrar of the criminal section via email regarding what he had done to secure legal representation.

[38] After the court granted him leave to file a supplementary affidavit the court indicated that this would now be the third opportunity he was being granted to secure legal representation. He undertook to do so and indicated that one of the reasons why he was unable to secure legal representation was because colleagues were demanding fees. He then indicated that he wished to apply for Legal Aid.

[39] The court informed him that he could do so and that such application had to be processed and legal representation secured at the next court hearing. It was indicated to him that he would have approximately a calendar month to secure legal representation for the enquiry at the end of October 2025. Despite being directed to return the documents and USB memory stick which the State had handed to him for purposes of discovery, Mr Nkatha likewise failed to comply with this directive.

[40] On 13 August 2025, a further order was issued for him to do so on 18 August 2025 by midday when he filed any further affidavit. He did not comply with the 12h00 deadline nor did he return all discovery bundles and trial exhibits and only delivered the USB memory sticks on 19 August 2025. The affidavit however indicates he deposed to such affidavit on 14 August 2025 presumably before a commissioner of oaths who commissioned it on the same day. This contradicts his email of 18 August 2025 sent at 13:13:25 in which he indicated he did not comply with the court order as he wanted a representative to deal with it first.

[41] In the answering affidavit filed by Mr Shah, which he indicates he was compelled to file given the material factual inconsistencies in Mr Nkatha's response of 1 August 2025. He points out:

(a) Bedderson J at the pre-trial conferences *inter alia* raised the issue of fees and that he had the opportunity to withdraw, Mr Nkatha elected to continue and informed the court he would resolve the issue of fees with accused 1. Bedderson J, according to Mr Shah, informed Mr Nkatha expressly that 'once the train had left the station he would be handcuffed to same and the court would not tolerate issues of fees at a later stage'

(b) Two dates were arranged for the pre-trial conferences which Mr Nkatha did not attend. This resulted in accused 2 applying for Legal Aid and a formal pre-trial conference being conducted exclusively for Mr Nkatha and accused 1. At such pre-trial presided over in September 2024, Mr Nkatha did not address the issue of fees with the presiding judge.

(c) Similarly, on 7 November 2024 when the matter was adjourned for trial, Mr Nkatha did not raise the issue of fees, but confirmed his appearance and the trial dates being 21 July 2025 to 18 September 2025.

(d) Prior to 21 July 2025, Mr Nkatha had not texted, WhatsApped, or emailed him or served any notice on him.

(e) He was advised by the investigating officer, Sergeant Goss, that he had seen Mr Nkatha in the vicinity of W Court and Sergeant Goss reported to him that Mr Nkatha refused to appear and had sent 'Mr Shah a notice last month'.

(f) Accused 1 informed the court that Mr Nkatha had informed him in May 2025 that he would not be appearing for him.

(g) Despite averting to several incidences of robbery and acts of intimidation, Mr Nkatha does not indicate details of when and where these occurred or whether he reported these robberies or acts of intimidation to the police.

(h) Specifically regarding the events during July 2025: Mr Shah points out that Mr Nkatha has not put up any read or delivery receipts in relation to the emails allegedly sent on 6 July 2025 nor has he explained why it was not served on the Registrar, or Legal Aid.

(i) The notice was only sent in July 2025, whereas accused 1 was informed in May 2025 he is no longer representing him.

(j) The letter of 24 July 2025 does not contain an explanation as to why he elected to attend at Morgan's Copy Centre to email the documents as opposed to attending at Mr Shah's office, which is a mere 200 metres away.

(k) The letter dated 6 July 2025 does not have a covering email.

(l) Why the alleged notice of withdrawal is amended in manuscript to reflect 6 July 2025, when it was dated 25 July 2025.

[42] In his supplementary affidavit Mr Nkatha attempts to deal with the contents of the answering affidavit filed by Mr Shah. He indicates:

(a) The experiences he has encountered which were not fully dealt with in his initial affidavit have caused depression for which he has sought professional assistance from Addington Hospital.

(b) He does not want to place his life at risk given the 'dead threats' as a consequence of which he started sleeping in his office for 'fear to his life'.

(c) He has 'incessantly tried to have his services withdrawn even for accused number 1' due to threats conveyed to the accused and secondly 'the fees outstanding in respect of both accused persons'.

(d) He indicated to Bedderson J that he wanted to withdraw but accused 1 insisted that he continue.

(e) He was of the view that the family of the accused no longer trusted him.

(f) That the family members of the accused kept pointing to 'one coloured person whom had been [at] **Bridge City and/or Ntuzuma Magistrate's Court**'.

(g) His own family was no longer at ease with him continuing in the matter.

(h) His office manager liaised with the accused as he was being evasive and changing dates by which he would be place him in funds to the extent that she even insisted he withdraw as attorney of record.

(i) That on both pre-trial dates when he did not attend at court, he met at the downstairs entrance of the court a coloured gentleman. He did not know this gentleman, however, he informed him that the matter had been dealt with at court and had been adjourned as a result of which he, Mr Nkatha, made a note of the date in his diary. He only found out about the court dates when his office manager questioned him as to why he had not attended at court.

(j) He confirmed receipt of an email from Mr Shah regarding the pre-trial conference in September 2024 and proceeded with the pre-trial conference and did not discuss the issue of fees. He had a discussion with the accused before he was taken down to the cells where the issue of fees was discussed. He suspected the fees were the proceeds of crime and wanted to withdraw and spoke to a family member of the accused.

(k) Food was handed to him, which he had suspicions about and realised that his life was in danger.

(l) His cellphone was stolen on 18 July 2025.

(m) Before he was robbed of his cellphone whereon there is proof of emails, etc., including the following:

(i) He sent an email indicating his situation that when attending at Westville Prison there are unmarked SAPS vehicles, which concerned him.

(ii) Sometime in June 2025 and still in possession of and using the subsequently stolen cellphone, he sent an email indicating his predicaments and that he would have difficulty proceeding with the matter.

(n) He attended at court on 21 July 2025, however, he did not speak to Mr Shah and sought to relay a message to him with the 'lady prosecutor who was present in the court at the time.' However, he saw a coloured gentleman present and therefore left without speaking to her.

(o)

[43] On 15 October 2025 Mr Nkatha appeared in person. This was despite the matter having been adjourned on three different occasions for him to secure the attendance of his legal representative after having indicated on the last occasion that he had spoken to several attorneys, one of whom could not be present in August, as he already was engaged in another matter. The directives issued by the court for his attorney to file the relevant notices of appointment as attorneys of record were never complied with.

[44] He indicated that he had approached Mr Marimuthu to apply for Legal Aid, but was advised that he earned in excess of the threshold and thus did not qualify for same. He intimated that he would proceed with the enquiry on his own and did so.

Submissions at the hearing on 15 October 2025

[45] Several submissions were made from the bar by Mr Nkatha in relation to the contents of the respective affidavits he and Mr Shah filed and in relation to the rule *nisi* issued and his explanation for not withdrawing and not attending at court on 21 July 2025.

[46] Mr Nkatha made the following submissions at the hearing:

(a) He had been accompanied to the Durban Magistrates' Court by a friend, Mr Tsepo Duncan. Although he had prepared an affidavit for Mr Duncan to sign, he had not done so – an unsigned document purporting to be his affidavit was handed in.

(b) He had three opportunities to withdraw in the matter but did not do so even though he had advised the accused and his family through his office manager. These were in November 2024, and February and May 2025.

Further affidavits filed late on 20 October 2025 and not in terms of the court order.

[47] At the hearing on 15 October 2025, Mr Nkatha indicated he wanted to file further affidavits from a friend who had accompanied him to court on 21 July 2025, and his office manager who could confirm his instructions to her to liaise with the accused and their families, including his instructions to her to withdraw as well as affidavits from security guards. He indicated that despite the matter being dealt with and adjourned on several occasions at his request, it did not occur to him to file such affidavits sooner.

The additional affidavits

[48] The additional affidavit of Ms Ziphozonke Ndlvou, Mr Nkatha's office manager, was filed. It confirms that she is the office manager and part of her duties include liaising with clients, specifically accused 1 and 2 in this particular matter. She sets out the following:

(a) As early as 2024, Mr Nkatha informed her that the family of the accused had lost faith in him and did not trust him and perceived him to be working with the prosecutor.

(b) There was an issue with Mr Nkatha using public transport.

(c) Mr Nkatha was concerned that his life was in danger.

(d) He suffered from depression and would sleep at the office.

(e) He confirmed that he did not report any of the incidences of robbery, 'dead threats', threats on his life, and being followed to the authorities.

(f) Mr Nkatha attended at Addington Hospital for depression and received medication as well as consultations with a psychologist.

(g) In both February and May 2025, it was relayed to clients that as a consequence of the issue of funds not being resolved, he would no longer be representing them.

(h) Ms Ndlovu assumed that in June 2025 he had withdrawn as legal representative. This was because Mr Nkatha indicated to her he would be withdrawing as representative and would be preparing such letter to be sent to the National Prosecuting Authority, as he was appointed to act as a magistrate at the Pinetown Magistrates' Court. He may have not done so as he was appointed as a magistrate.

(i) Whilst acting as a magistrate circumstances arose which prompted him to report to his senior at the Pinetown Magistrates' Court what he had been experiencing specifically as a consequence of him experiencing flashbacks.

(j) She tenders an apology on his behalf and grudgingly indicates that his non-compliance with the court order was not deliberate nor negligent and was due to circumstances beyond his power and control.

(k) Ms Ndlovu confirms that he was robbed on 18 July 2025.

(l) She also confirms that Mr Natha had suffered from food poisoning.

Analysis

[49] In dealing with the matter, it is important to firstly deal with certain preliminary aspects.

Preliminary aspects

[50] The first relates to the failure by Mr Nkatha to secure legal representation for himself in these proceedings. The record reveals that he had been given several opportunities to secure representation. He had placed on record initially that he had secured representation but that the date did not suit his legal representative, and the matter was adjourned to a date suitable to the legal representative as well as to enable Mr Nkatha to file further affidavits.

[51] At subsequent appearances he indicated he did not secure legal representation as the legal practitioners he approached requested to be paid for their assistance. He even resorted to applying for Legal Aid, but was not successful as he did not pass the means test. Eventually when the matter proceeded, he indicated that he would represent himself and did so. Mr Nkatha also seemed to suggest during the proceedings that he had sought assistance when preparing the affidavits.

Affidavits

[52] Several affidavits were filed by Mr Nkatha. The record also indicates that despite the court orders issued directing him to do so within specific time frames he did not. He then requested to file additional affidavits and was allowed to do so, which further affidavits have been considered. He even filed additional written submissions for which he did not seek leave which were also considered. What was apparent is as the proceedings progressed and certain aspects raised by the court and Mr Shah, Mr Nkatha filed further submissions, clearly creating the impression he was embellishing his explanation as the enquiry proceeded.

Contempt of court

[53] There are two aspects which require adjudication. Contempt *ex face curiae* and contempt for a failure to comply with the court order requiring his attendance at court on 24 July 2025 and to hand over documents timeously.

[54] Contempt *ex face curiae* (occurring not in the presence of the court while sitting), or what is often referred to as criminal contempt, as held by the Constitutional Court in *Matjhabeng Local Municipality v Eskom Holdings Ltd and Others; Mkhonto and Others v Compensation Solutions (Pty) Ltd*,[1] specifically includes bringing

'the moral authority of the judicial process into disrepute and as such covers a multiplicity of conduct interfering in matters of justice pending before a court. It thereby creates serious risk of prejudice to the fair trial of particular proceedings.'

[55] Contempt has been described as part of a broader offence taking on many forms although the essence thereof 'lies in violating the dignity, repute or authority of the court'.[2]

[56] These proceedings involve both contempt *ex facie curiae* and what is described as civil contempt, which relates to the disobedience of a court order. In *Secretary of the Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector, including Organs of State v Zuma and*

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[1] *Matjhabeng Local Municipality v Eskom Holdings Ltd and others; Mkhonto and others v Compensation Solutions (Pty) Ltd* [2017] ZACC 35; 2017 (11) BCLR 1408 (CC) (*Matjhabeng*) para 52.

[2] *Fakie NO v CCII Systems (Pty) Ltd* [2006] ZASCA 52; 2006 (4) SA 326 (SCA) (*Fakie*) para 6.

Others (Helen Suzman Foundation as amicus curiae)[3] the court held that defiance of a court order constitutes ordinary civil contempt proceedings and even if a committal is sought it does not mean that a person who is facing contempt of court proceedings is an accused person.

'The summary process under scrutiny in *Mamabolo* cannot be characterised as being akin to ordinary civil contempt proceedings, like those *in casu* (in this case), for defiance of a court order. In that matter, this Court even described the alleged scandaliser as "an accused person as contemplated by section 35(3) of the Constitution", because of the summary process involved on those specific facts. Thus, to imply that these proceedings are akin to the summary process held to be unconstitutional in *Mamabolo* constitutes a is characterisation of these proceedings. That the applicant seeks a sanction, which this Court has said may be apposite under certain circumstances for defiance of court orders, that happens to be committal, does not have the effect of transforming Mr Zuma into an accused person in terms of section 35 of the Constitution. As I have already stated, to say that it does would contradict the clear findings in *Fakie* that have been affirmed by this Court in *Pheko II*.' (Footnotes omitted.)

[57] This is in accordance with what was held in *Pheko and Others v Ekurheleni Metropolitan Municipality*[4] the court held that disobeying a court order is civil contempt:

'The term civil contempt is a form of contempt outside of the court, and is used to refer to contempt by disobeying a court order.'

[58] *Pheko II* also held that a person facing contempt of court proceedings is not an accused person as envisaged by s 35 of the Constitution. It would thus mean that the situation with Mr Nkatha must be dealt with as one would deal with normal civil contempt of court proceedings and contempt *ex facie curiae*.[5]

[59] The general procedure to be adopted when dealing with matters involving civil contempt was summarised and dealt with by the court in *Fakie*[6] as follows:

'To sum up:

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[3] *Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State v Zuma and Others (Helen Suzman Foundation as amicus curiae)* [2021] ZACC 28; 2021 (9) BCLR 992 (CC) (*Zuma*) para 120.

[4] *Pheko and Others v Ekurhuleni City* [2015] ZACC 10; 2015 (5) SA 600 (CC) (*Pheko II*) para 30

[5] *Pheko II* para 36.

[6] *Fakie* para 42.

(a) The civil contempt procedure is a valuable and important mechanism for securing compliance with court orders, and survives constitutional scrutiny in the form of a motion court application adapted to constitutional requirements.
(b) The respondent in such proceedings is not an "accused person", but is entitled to analogous protections as are appropriate to motion proceedings.
(c) In particular, the applicant must prove the requisites of contempt (the order; service or notice; non-compliance; and wilfulness and *mala fides*) beyond reasonable doubt.
(d) But, once the applicant has proved the order, service or notice, and non-compliance, the respondent bears an evidential burden in relation to wilfulness and *mala fides*: Should the respondent fail to advance evidence that establishes a reasonable doubt as to whether non-compliance was wilful and *mala* A *fide*, contempt will have been established beyond reasonable doubt.
(e) A *declarator* and other appropriate remedies remain available to a civil applicant on proof on a balance of probabilities.'

[60] In *Pheko II* the Constitutional Court *mero motu* initiated contempt proceedings and issued directions to show cause why officials ought not to be held in contempt of court.[7]

What is the standard of proof required?

[61] In *Matjhabeng* the court held that if committal is sought proof beyond reasonable doubt is required otherwise proof on the balance of probabilities is required:[8]

'Summing up, on a reading of *Fakie*, *Pheko II*, and *Burchell*, I am of the view that the standard of proof must be applied in accordance with the purpose sought to be achieved, differently put, the consequences of the various remedies. As I understand it, the maintenance of a distinction does have a practical significance: the civil contempt remedies of committal or a fine have material consequences on an individual's freedom and security of the person. However, it is necessary in some instances because disregard of a court order not only deprives the other party of the benefit of the order but also impairs the effective administration of justice. There, the criminal standard of proof - beyond reasonable doubt - applies always. A fitting example of this is *Fakie*. On the other hand, there are civil contempt remedies? for example, declaratory relief, *mandamus*, or a structural interdict - that do not have the consequence of depriving an individual of their right to freedom and security of the person. A

[7] *Pheko II* para 12.
[8] *Matjhabeng* para 67.

fitting example of this is *Burchell*. Here, and I stress, the civil standard of proof – a balance of probabilities - applies.'

[62] In *Pheko II* the court held the following:[9]

'The standards of proof are those set out in *Fakie*: a balance of probabilities in respect of civil remedies and a reasonable doubt in respect of a committal order.'

[63] Adverting to the facts. The distinction between the two instances which this court has to consider is that civil contempt refers to only one type of conduct, being the disobedience of a court order – in this instance the failure to comply with paragraph 1.3 of the order of 24 July 2025 which was issued pursuant to a directive of this court on 22 July 2025. Our courts have held that even directives are binding. *SJC v TRC* [held:[10] 'The failure to comply with a direction issued by a court seems to me to be no different from the failure to obey a formal court order. Both lead to the undermining of the efficiency dignity and authority of the court.'

[64] On 22 July 2025, at 09h39, Mr Nkatha was notified to attend at court on 24 July 2025. An email was sent to his office, which was received by Ms Nozipho Ndlovu his office manager at the office email address provided by Mr Nkatha, sithenkhatacoinc@outlook.com. She acknowledged receipt of the email on 22 July 2025 at 15h58. He was thus aware he was required to be in attendance on 24 July 2025.

[65] Despite this he did not attend at court, nor did he contact my secretary or Mr Shah to indicate he would not be in attendance or to make alternative arrangements. What he did was to despatch an email from Morgan's Copy Centre and Photography (designerimac@gmail.com) which was copied to his office email address being sithenkhatacoinc@outlook.com.

[66] The letter was not dated and does not indicate why he was not at court. The hospital appointment card attached indicates he is undergoing treatment as well as the dates he is required to attend at hospital.

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[9] *Pheko II* para 50.
[10] *SJC v TRC* [2022] ZAWCHC 257 para 65.

[67] Interestingly, there are no appointments for July 2025. So, one is left in the dark as to why he was not in attendance. What is also evident is that although he requested to file an additional affidavit from his office manager to deal with issues he forgot to canvass, she does not deal with the email she sent on 22 July 2025 in which she acknowledged he was required to attend at court on 24 July 2025. She also does not indicate that he was unaware of the contents of the email, nor does she say she failed to inform him that he was required to attend court.

[68] It is evident that on the probabilities she would have brought it to his attention and made him aware he was to attend at court. Why else would he email Mr Shah on 24 July 2025 at 13h53 and copy Ms Ndlovu at his office email address.

[69] If one had regard to the requirement of civil contempt of court order, as set out in *Fakie*, and applying these to the facts with regards to the directive / order was issued on 22 July 2025. The directive / order was brought to his attention as it was emailed to him. His office manager acknowledged receipt thereof in writing.

[70] In his initial affidavit he does not proffer an explanation for not attending at court on 24 July 2025. Neither does his office manager who confirmed receipt of the directive / order and having informed him thereof. The explanation from Mr Nkatha of having to attend at hospital is only forthcoming belatedly, after Mr Shah raised it in his affidavit. It is only then in a supplementary affidavit which he filed to 'align the dates and inaccuracies' does he for the first time put up a payment to the hospital for the 24 July 2025 and the note.

[71] What is not explained is why, if he attended at hospital on the morning of 24 July 2025,he did not attach proof thereof when he later emailed Mr Shah from Morgan's Copy Centre later that afternoon, and why this documentation only emerged under cover of a supplementary affidavit after the issue was raised by Mr Shah and addressed in court during the hearing.

[72] Also, this visit does not appear to have been a scheduled one in terms of the hospital appointment card, and it is a direction for Mr Nkatha to be given for a

psychology consultation and a flu appointment date. The only inference to be drawn was that he deliberately did not attend at court on 24 July 2025. His office manager also does not confirm he had an appointment even though he sought her to have her file an affidavit confirming this.

[73] In my view, his failure to attend at court on 24 July 2025 has not been explained and he has therefore not discharged the evidentiary burden of showing his conduct was *not* wilful and *mala fide* and consequently he is in contempt.

[74] Turning now to the matters involving the criminal contempt. Section 165 of the Constitution guarantees and safeguards judicial authority. This section must be read in conjunction with the supremacy clause of the Constitution and provides that courts are vested with judicial authority and specifically in s 165(3) that 'no person or organ of state may interfere with the functioning of the courts'. The Constitution enjoins organs of state to assist and protect the courts to ensure their dignity and effectiveness.[11]

[75] Section 165(5) makes orders of court binding on 'all persons to whom and organs of state to which it applies', thus ensuring the effectiveness of our courts' authority. The continual non-compliance with court orders places judicial authority at risk. The effect of a finding of contempt in both civil and criminal matters may result in committal for contempt of court.

[76] In relation to the proper standard of proof applicable in contempt of court proceedings there have been divergent views. The majority of the Supreme Court of Appeal in *Fakie* indicated the standard of proof to be used for both civil and criminal contempt is beyond reasonable doubt. The court was focussed on the possibility of the contemnor receiving a sentence of imprisonment. The minority disagreed with the extension of the criminal standard of proof to civil contempt. The majority held that an applicant in contempt proceedings must prove all the requisites of contempt beyond reasonable doubt but once the applicant has proved the order, service or notice, and

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[11] Section 165(4) of the Constitution.

non-compliance, the respondent bears the evidential burden in relation to wilfulness and *mala fides*.

[77] The Constitutional Court in *Matjhabeng Local Municipality* had cause to consider the standard of proof to be applied, having regard to the decisions in *Fakie, Pheko II* and *Burchell v Burchell*.[12] In *Matjhabeng* the court held the following:[13]

'I am of the view that the standard of proof must be applied in accordance with the purpose sought to be achieved, differently put, the consequences of the various remedies. As I understand it, the maintenance of a distinction does have a practical significance: the civil contempt remedies of committal or a fine have material consequences on an individual's freedom and security of the person. However, it is necessary in some instances because disregard of a court order not only deprives the other party of the benefit of the order but also impairs the effective administration of justice. There, the criminal standard of proof – beyond reasonable doubt – applies always. A fitting example of this is *Fakie*. On the other hand, there are civil contempt remedies – for example, declaratory relief, *mandamus*, or a structural interdict – that do not have the consequence of depriving an individual of their right to freedom and security of the person. A fitting example of this is *Burchell*. Here, and I stress, the civil standard of proof – a balance of probabilities – applies.'

[78] Given the authorities, the focus is on the remedy sought. In this particular matter, given the relief sought being that of committal the standard of proof which this court must follow is that of beyond reasonable doubt.

[79] In relation to the application for contempt *ex facie curiae* this court must deal with the appropriateness of the procedure adopted. This was dealt with by the Constitutional Court in *Matjhabeng*.[14] It held the following:

'The appropriateness of the summary contempt procedure in *Matjhabeng* also requires this Court's attention. The common law procedure for the commencement of contempt proceedings, in cases of contempt while a court is not sitting (*ex facie curiae*) – like in the present cases – contrasts with contempt that occurs in or near a court. The former has been described as follows by the Appellate Division in *Keyser*:

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[12] *Burchell v Burchell* [2005] ZAECHC 35.
[13] *Matjhabeng* para 67.
[14] *Matjhabeng* para 79.

> "[I]n every case of contempt *ex facie curiae* dealt with by our courts without a criminal trial, the proceedings were commenced by an order, served upon the offender, containing particulars of the conduct alleged to constitute the contempt of court complained of, and calling upon the offender to appear before the court and to show cause why he should not be punished summarily for the alleged contempt of court. Sometimes the order has been issued on the application of the Attorney General, sometimes it has been issued by the court *mero motu* [of its own accord], but in every case it has informed the offender of the case he has to meet, and in every case it has allowed him sufficient time to consult counsel, to prepare his defence and to decide whether he will give evidence on oath or not."

This general approach is constitutionally compliant. It affords the respondent procedural safeguards while ensuring that the authority of the court is vindicated.' (Footnotes omitted.)

[80] The record reveals that the order was issued subsequent to the directive requiring Mr Nkatha to appear in court on 24 July 2025 not being followed. In addition, a rule *nisi* was issued without any interim relief which informed him pertinently of the conduct complained of and the case he had to meet. The necessary procedural safeguards were afforded to Mr Nkatha.

[81] A SAPS official also filed an affidavit setting out the attempts he made to serve the order on Mr Nkatha confirming his offices were locked. They did trace his office manager and served the court order on her on his behalf. She subsequently confirmed via email on 28 July 2025 the order was received. Mr Nkatha also confirmed receipt of the court order.

[82] From the affidavits filed by Mr Nkatha what is evident is the following:

(a) He was ill for a continual period of time, suffering from depression and receiving treatment for which treatment appears to have commenced in April 2025 having regard to the hospital card.

(b) He was the victim of several robberies at various stages over the years in which his cellphone was stolen-the last of these was on 18 July 2025. He indicates he attended at Telkom on 19 July 2025. He also had access to his office phone. The document he puts up in support of his obtaining a new phone on 21 July 2025 at 12h50pm does not even relate to him but a Themba Zulu.

(c) He elected not to formally lay criminal charges as a result of these robberies and thefts – this was confirmed by his office manager.

(d) He was unable to specify the dates on which these incidents occurred, and they appear to have occurred over an extended period of time, some dating back to 2020, thus a period of years,

(e) His office manager indicates that some of the incidents which he had witnessed and which occurred in 2024 were related to the taxi industry.

[83] None of these incidents however can for a certainty be attributed to this matter, as he appears to have been involved in several matters in his capacity as a legal representative and acting magistrate, some of these incidents appear to have preceded the events in this matter and the arrest of the accused. What also beggars belief is that if he attributed all these incidences and 'dead threats' to this matter why he continued to remain as legal representative and not withdraw earlier or bring it to the attention of the authorities.

[84] What also boggles one's mind is how he did not realise that Sergeant Goss was the coloured man referred to by the family of the accused. If he was so fearful of him or suspicious of him why not ask Mr Shah who he was or the accused, and why rely on Sergeant Goss for the dates of the court appearances when he arrived late at court if he harboured suspicions or was fearful of him. He is an acting magistrate and legal representative of many years and was provided with discovery documents bundles and trial exhibits, and would have seen from the statements who the investigating officer was.

[85] The correspondence dated 6 July 2025 is most telling and raises more questions than answers. One wonders why its marked 'without prejudice'. In addition, the reason proffered for withdrawal is as a result of a conflict of interest that arose and in addition, that the conflict of interest was in place when the admissions were being dealt with in November 2024. Why not withdraw then?

[86] Mr Nkatha also indicates that

'we were of the understanding that should he fail to meet this obligation, he would then be representing himself in the matter at hand. Our attempts to withdraw were halted by him with such an understanding and that when Mr Mkhize opted to move to Legal Aid.'

[87] Paragraph 4 of the letter is noteworthy in that he tenders to traverse the conflict of interest in chambers should the court allow this and that the withdrawal was besides the issue of non-payment. There is no indication why no attempts were made to deal with the conflict at the time the admissions were dealt with if it in fact it arose then or why these issues were not timeously brought to the attention of the State representative and arrangements made for the matter to be enrolled prior to the trial date for this to be formally placed on record. What is most noteworthy about the letter is that at no stage does Mr Nkatha mention being threatened.

[88] There are several conflicting explanations and the document of 6 July 2025 which, in my view, points to it having been created *ex post facto* and not in fact emailed to Mr Shah. The reasons therefor are the following. Ms Ndlovu says that she assumed during June that he informed her that he was going to prepare and file such document but was appointed as a magistrate. This ties in with her version that accused 1 and his family were informed in February and May 2025 that Mr Nkatha would not be representing them. One gets the impression from her affidavit that he may have not done so as a result of his appointment. If he did so, one would have expected him to have informed her and copy her in the office email, as he did when he emailed Mr Shah from Morgan's copy shop at the email address sithenkhatacoinc@outlook.com.

[89] The date of having sent the letter on 6 July 2025 does not tie in with Mr Nkatha's supplementary affidavit of 19 July 2025 in which Mr Nkatha alludes to this email and says the following: 'A month before the month of July, using the phone I was robbed of on 18 July 2025, I sent an email indicating my predicaments, and that it would be difficult for me to proceed with this matter…'.

[90] The letter, as Mr Shah correctly points, out does not indicate he was threatened. Also, what points to it having not being prepared and sent on 6 July 2025 are the following. There is no covering email. What is not explained is where this email emanates from if it was sent from the phone which was stolen on 18 July 2025. If he was able to retrieve it, where did he retrieve it from and why is there no proof of service and filing?

[91] Further, why did his office manager not know about it? Why are there manuscript amendments to the document changing the date from 25 July 2025 to 6 July 2025? This all points to the document not having been sent on 6 July 2025. What is also not explained was that if he sent the document on 6 July 2025, why he did not contact Mr Shah to advise him of it and to request arrangements be made for a pre-trial and for the presiding officer and accused 1 to be informed of same?

[92] His explanation for why he did not attend at court and formally withdraw on 21 July 2025 is also not explained. He says he attended at Pinetown Magistrates' Court first and was accompanied by a friend. Although he prepared an affidavit for the friend to sign, he did not do so. Seargent Goss, when he saw him at W Court, does not mention Mr Nkatha was in the company of anyone. Mr Nkatha does not say he was at W Court. In fact, he says he did not know which court the trial was proceeding at and he did not enter the court in which the female prosecutor was.

[93] His explanation does not accord with Sergent Goss' version that he was outside W Court when he refused to go to the trial court. Mr Nkatha says his intention was to inform the female prosecutor to pass a message to Mr Shah but saw a coloured male and therefore did not even enter the court and left. Mr Nkatha is aware from having presided as a magistrate and as a legal representative of some years that he is required to attend formally and in person at court and withdraw as legal representative specifically in criminal matters. His conduct in failing to do so constituted a failure in his obligation to the presiding officer, to accused 1 and a failure to comply with his ethical obligations as a legal practitioner. In my view, he had no intention of attending at court to withdraw or inform Mr Shah thereby impugning the dignity of the court once again.

[94] As a result of his conduct the trial did not proceed, huge expenses were incurred by the State in securing the attendance of witnesses, both lay and expert witnesses, and it impacted on the administration of justice. Not only has the administration of justice been affected but the trial of the matter has been further delayed and could only be accommodated in October 2026. Thus, the family of the deceased have had to wait for four years since the incidents before the trial could even proceed. It is

evident from the discovery bundles and trial exhibits that the trial will not be finalised in the time allocated.

[95] It is also evident that on his version, as confirmed by Ms Ndlovu, that Mr Nkatha had several opportunities to withdraw as legal representative prior to the matter being certified ready for trial including at the period of arranging trial dates in November 2024. In November 2024, at the time of the admissions on his version he realised there was a conflict, the family of the accused had lost faith in him and he realised the 'monies were the proceeds of crime', he could have withdrawn. He could also have withdrawn in February and May 2025 well in advanced of the trial dates which would have provided the state and the accused with sufficient opportunity to arrange for alternate legal representation resulting in the trial proceeding on the trial dates allocated in July 2025, huge expenses being saved and no further delay in the proceedings.

[96] In relation to paragraph 1.3 of the rule *nisi* he in no way in his email to Mr Shah of 24 July 2025 indicates why he did not produce the discovered documents, and it is common cause that further orders had to be issued on 13 August 2025 for him to comply. Despite two court orders in this regard, he did not fully comply and only did so on 18 and 19 August 2025.

[97] In the result, and given the aforementioned, I am of the view that Mr Nkatha has not discharged the evidentiary burden that he has contravened s 165(3) and interfered with the proper functioning of the court and thus impugned the dignity of the court.

[98] The following orders are issued:

1. Paragraphs 1.1, 1.1.1, 1.1.2, 1.2 and 1.3 of the rule *nisi* of 24 July 2025 are thus confirmed.

2. Paragraph 1.4 of the rule *nisi* is adjourned to 19 February 2026 at 9h30.

3. Mr Nkatha is directed to ensure he is in attendance on 19 February 2026 at 9h30and is suitably represented to lead evidence or present submissions in mitigation of sentence.

4. The Registrar of the criminal section is directed to ensure that a copy of the orders issued, and the judgment, is despatched to Mr Nkatha and Mr Shah of the National Prosecuting Authority.

HENRIQUES J

CASE INFORMATION

Appearances

Counsel for the State	:	Mr K Shah
Instructed by	:	The National Prosecuting Authority Durban
For Mr Sithembiso Nkatha	:	In person
Dates matter heard	:	24 July 2025, 13 & 21 August 2025, 15 & 31 October 2025
Date of Judgment	:	30 January 2026